

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3011 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

M/S.SHAILTEX LUBRICANTS PVT. LTD. & ANR.

Versus

UNION OF INDIA & ANR.

Appearance:

MR KAUSHAL THAKER for Petitioners
MR JD AJMERA for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/10/96

ORAL JUDGEMENT

1. The petitioner has challenged the validity of the action of the respondents of issuing of the supplementary bill, annexure 'D' of the Telephone no.361849. The petitioner has further prayed for the injunction against the respondents, not to disconnect the petitioners telephone no.361849 for non payment of the amount of the aforesaid supplementary bill. The petitioner has been protected by this court by grant of interim relief in

terms of para no.16(b). The amount of supplementary bill is Rs.7499-20.

2. The learned counsel for the respondents raised an objection that this writ petition is not maintainable as the petitioner has an efficacious alternative remedy to approach for arbitration under the provisions of sec.7B of the Indian Telegraphs Act. The counsel for the petitioner Shri Kaushal Thaker made out that the petitioner has no objection to approach to the arbitrator in the matter and further gives out that the petitioner will deposit the disputed amount of the supplementary bill under protest, but the respondent may not disconnect the telephone of the petitioner on dismissal of this petition. When the petitioner will deposit the amount of the disputed bill, I fails to see any justification in the apprehension of the counsel for the petitioner that the respondent will disconnect the telephone. On deposit of the said amount, the telephone of the petitioner cannot be disconnected for nonpayment of the amount in dispute.

3. In the result, this writ petition is disposed of in the terms that the petitioner is at liberty to approach to the arbitrator in the matter against the disputed bill of the telephone no.361849 within a period of one month from today. The petitioner shall deposit under protest as undertaken by the counsel for the petitioner, the amount of the disputed bill in the office of the respondent before approaching to the Arbitrator and the receipt of deposit of the said amount should be enclosed to the application to be filed by the petitioner for arbitration. The authority to which the petitioner shall approach for arbitration in the matter is expected to decide the same within a period of three months from the date of receipt of the said application. However, in case, ultimately the complaint of the petitioner is accepted then the petitioner shall be entitled for the refund of the amount in question together with the interest thereon at the rate of 12% from the date of the deposit thereof till the date of repayment. Rule is disposed of in the aforesaid terms with no order as to costs.

zgs/-